

House File 8

HOUSE FILE _____
BY MERTZ

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child abuse involving members of the clergy
2 and child abuse reporting requirements, and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1023YH 83
6 jp/nh/5

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1 1 Section 1. Section 232.68, subsection 2, paragraph d, Code
1 2 2009, is amended to read as follows:
1 3 d. The failure on the part of a person responsible for the
1 4 care of a child to provide for the adequate food, shelter,
1 5 clothing or other care necessary for the child's health and
1 6 welfare when financially able to do so or when offered
1 7 financial or other reasonable means to do so. A parent or
1 8 guardian legitimately practicing religious beliefs who does
1 9 not provide specified medical treatment for a child for that
1 10 reason alone shall not be considered abusing the child,
1 11 however this provision shall not preclude a court from
1 12 ordering that medical service be provided to the child where
1 13 the child's health requires it. Such a failure on the part of
1 14 a member of the clergy who is a person responsible for the
1 15 care of a child shall be considered child abuse only to the
1 16 extent and duration of the care provided to the child by the
1 17 member of the clergy.

1 18 Sec. 2. Section 232.68, subsection 7, Code 2009, is
1 19 amended by adding the following new paragraph:

1 20 NEW PARAGRAPH. e. A member of the clergy who came to know
1 21 a child through an official capacity or position of trust.

1 22 Sec. 3. Section 232.69, subsection 1, paragraph b, Code
1 23 2009, is amended by adding the following new subparagraph:

1 24 NEW SUBPARAGRAPH. (14) A member of the clergy.

1 25 Sec. 4. Section 232.70, subsection 2, Code 2009, is
1 26 amended to read as follows:

1 27 2. A mandatory or permissive reporter may also notify the
1 28 reporter's employer or supervisor or other person with
1 29 authority over the mandatory or permissive reporter regarding
1 30 the child abuse report. The employer or supervisor of a

1 31 person who is a mandatory or permissive reporter or a person
1 32 in authority receiving the report shall not apply a policy,
1 33 work rule, or other requirement that interferes with the
1 34 person making a report of child abuse and shall not exercise
1 35 any control or restraint in the making of the report or
2 1 initiate a modification or other change in the report content.

EXPLANATION

2 2
2 3 This bill relates to child abuse involving members of the
2 4 clergy and child abuse reporting requirements, and makes
2 5 penalties applicable.

2 6 Iowa law involving child abuse defines various acts as
2 7 child abuse and provides that child abuse exists when any of
2 8 the acts in the definition are committed on a child by a
2 9 caretaker defined as a "person responsible for the care of a
2 10 child". The bill explicitly expands the child abuse law to
2 11 include members of the clergy who came to know a child through
2 12 an official capacity or position of trust in the child abuse
2 13 law by amending the law's definitions to include such clergy.
2 14 Under the definitions, child abuse acts include nonaccidental
2 15 physical injury, mental injury, various sexual offenses,
2 16 neglect, and the presence of an illegal drug in a child's
2 17 body.

2 18 The "neglect" portion of the definition of the term "child
2 19 abuse" in Code section 232.68, involving failure of a person

2 20 responsible for the care of a child to provide adequate food,
2 21 shelter, clothing, or other care necessary for the child's
2 22 health and welfare, is amended to clarify that this portion's
2 23 applicability to a member of the clergy who is such a person
2 24 is limited to the extent and duration of the care provided to
2 25 the child by the member of the clergy.

2 26 The definition in Code section 232.68 of the term "person
2 27 responsible for the care of a child" used in the child abuse
2 28 statute is expanded. The expansion includes in the definition
2 29 a member of the clergy who came to know a child through an
2 30 official capacity or position of trust. This inclusion
2 31 triggers requirements in law for reporting of child abuse acts
2 32 by such members of the clergy.

2 33 A report of child abuse is made to the department of human
2 34 services and the department involves law enforcement and
2 35 notifies the county attorney. The department performs an
3 1 assessment of the child abuse allegations and issues a written
3 2 report. If the department finds that child abuse occurred,
3 3 unless the injury or risk of harm was determined to be minor,
3 4 isolated, and unlikely to recur, the name of the person
3 5 alleged to have committed the abuse is placed on the central
3 6 child abuse registry as having committed founded child abuse.

3 7 The list of those who are mandatory reporters of child
3 8 abuse in Code section 232.69 is expanded to include members of
3 9 the clergy. A mandatory reporter is required to complete two
3 10 hours of training relating to the identification and reporting
3 11 of child abuse within six months of initial employment and to
3 12 complete at least two hours of additional child abuse
3 13 identification and reporting training every five years.

3 14 The requirements for the process of making a child abuse
3 15 report in Code section 232.70 are also expanded. The bill
3 16 explicitly authorizes a mandatory or permissive reporter to
3 17 notify the reporter's employer or supervisor or other person
3 18 with authority over the reporter regarding the report.
3 19 Current law prohibits an employer or supervisor from applying
3 20 a policy, work rule, or other requirement that interferes with
3 21 a person making a report of child abuse. The bill also
3 22 prohibits an employer or supervisor or a person in authority
3 23 from exercising any control or restraint in the making of a
3 24 report or from initiating any modification or other change in
3 25 the report content.

3 26 Penalties in current law would apply to the changes made in
3 27 the bill. Any person, official, agency, or institution
3 28 required to report a suspected case of child abuse who
3 29 knowingly and willfully fails to do so commits a simple
3 30 misdemeanor. A simple misdemeanor is punishable by
3 31 confinement for no more than 30 days or a fine of at least \$65
3 32 but not more than \$625 or by both.

3 33 Any person, official, agency, or institution required to
3 34 report a suspected case of child abuse who knowingly fails to
3 35 do so or who knowingly interferes with the making of such a
4 1 report in violation of Code section 232.70 is civilly liable
4 2 for the damages proximately caused by such failure or
4 3 interference.

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